



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 6, 2021


United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Case No. 19-34054-SGJ-11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Chapter 11
	§	
Reorganized Debtor.	§	
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HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	Adversary No.: 21-03006-sgj
HIGHLAND CAPITAL MANAGEMENT	§	
SERVICES, INC.,	§	
	§	
Defendant.	§	

**ORDER APPROVING STIPULATION AND AGREED ORDER GOVERNING
DISCOVERY AND OTHER PRE-TRIAL ISSUES**

Upon consideration of the *Stipulation and Agreed Order Governing Discovery and Other Pre-Trial Issues* [Docket No. 67] (the "Stipulation")¹ entered into between Highland Capital

¹ Capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Stipulation.

Management, L.P., the reorganized debtor² (“Highland”) in the above-captioned chapter 11 case (“Bankruptcy Case”) and the plaintiff in the above-captioned adversary proceeding (the “Adversary Proceeding”), and Highland Capital Management Services, Inc. (“HCMS”, and together with Highland, the “Parties”), it is **HEREBY ORDERED THAT**:

1. The Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED**.
2. The Stipulation supersedes any prior stipulation or scheduling order governing the Adversary Proceeding.
3. The Parties shall abide by the following pretrial schedule (the “Joint Pretrial Schedule”) pursuant to the Stipulation:
 - HCMS will have until August 30, 2021 to answer or otherwise respond to the First Amended Complaint.
 - The Parties will serve written discovery demands (limited to new claims and allegations in the First Amended Complaint) by September 3, 2021.
 - The Parties will respond to discovery requests by September 27, 2021 and will also be substantially complete with document production by September 27, 2021.
 - Fact depositions will take place between October 1 and October 22, 2021.
 - Expert designations and disclosures of all opinions, and the bases therefor, will be made by October 29, 2021, and experts will be deposed between October 29, 2021 and November 8, 2021.
4. The Parties agree that discovery taken in this case will be consolidated with discovery taken in the following adversary proceedings, and all discovery in each of the adversary proceedings will be treated as if it was taken in all of the adversary proceedings listed below so

² On February 22, 2021, the Bankruptcy Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Docket No. 1943] (the “Confirmation Order”) which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.*, as modified (the “Plan”). The Plan went Effective (as defined in the Plan) on August 11, 2021, and Highland is the Reorganized Debtor (as defined in the Plan) since the Effective Date. See *Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 2700].

that each witness will only need to be deposed once and documents produced in any of the proceedings are usable as if received in every other proceeding:

- *Highland Capital Management, L.P. v. James D. Dondero*, Adv. Pro. No. 21-03003;
- *Highland Capital Management, L.P. v. Highland Capital Management Fund Advisors, L.P.*, Adv. Pro. No. 21-03004;
- *Highland Capital Management, L.P. v. NexPoint Advisors, L.P.*, Adv. Pro. No. 21-03005; and
- *Highland Capital Management, L.P. v. HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC)*, Adv. Pro. No. 21-03007.

5. The Joint Pretrial Schedule set forth in this Order shall only be modified in writing signed by the Parties or upon entry of an order of the Court entered upon notice to the Parties.

6. The Court shall retain jurisdiction over all disputes arising out of or otherwise governing the interpretation and enforcement of this Order.

###End of Order###

EXHIBIT A

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 19-34054-SGJ-11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Chapter 11
	§	
Debtor.	§	
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	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff.	§	
	§	
v.	§	
	§	Adversary No.: 21-03006-sgj
HIGHLAND CAPITAL MANAGEMENT	§	
SERVICES, INC.,	§	
	§	
Defendant.	§	

**STIPULATION AND AGREED ORDER GOVERNING DISCOVERY
AND OTHER PRE-TRIAL ISSUES**

This stipulation and agreed order (the “Stipulation”) is entered into between Highland Capital Management, L.P. (the “Debtor”) and Highland Capital Management Services, Inc. (“HCMS”). The Debtor and HCMS are collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, on **June 3, 2021**, HCMS filed a Motion to Withdraw the Reference.

WHEREAS, on **July 14, 2021**, the Bankruptcy Court filed its *Report and Recommendation to District Court Proposing that it (A) Grant Defendant's Motion to Withdraw*

the Reference at Such Time as Bankruptcy Court Certifies that Action is Trial Ready; and (B) Defer Pretrial Matters to Bankruptcy Court [Docket No. 47] (the "Report").

WHEREAS, the Debtor has indicated that it intends to file a First Amended Complaint, asserting additional claims against HCMS, as well as claims against new defendants, Nancy Dondero and The Dugaboy Investment Trust.

WHEREAS, the Parties intend to complete fact and expert discovery in this adversary proceeding as governed by this Stipulation.

STIPULATION

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE PARTIES HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. This Stipulation supersedes any prior stipulation or scheduling order governing the above-referenced adversary proceeding.
2. The Parties agree to the following deadlines regarding discovery and other pre-trial deadlines:
 - The Parties agree that the Debtor will file and HCMS will not oppose a Motion for Leave to File First Amended Complaint by August 17, 2021, a copy of which has previously been provided by the Debtor to HCMS. Counsel for HCMS will accept service of the First Amended Complaint on behalf of HCMS and the additional defendants named in the First Amended Complaint.
 - HCMS will have until August 30, 2021, to answer or otherwise respond to the First Amended Complaint.
 - The Parties will serve written discovery demands (limited to new claims and allegations in the First Amended Complaint) by September 3, 2021.
 - The Parties will respond to discovery requests by September 27, 2021 and will also be substantially complete with document production by September 27, 2021.
 - Fact depositions will take place between October 1 and October 22, 2021.

- Expert designations and disclosures of all opinions and the bases therefor, will be made by October 29, 2021, and experts will be deposed between October 29, 2021 and November 8, 2021.

3. The Parties agree that discovery taken in this case will be consolidated with discovery taken in the following adversary proceedings and all discovery in each of the adversary proceedings will be treated as if it was taken in all of the adversary proceedings listed below, so that each witness will only need to be deposed once and documents produced in any of the proceedings are usable as if received in every other proceeding:

- *Highland Capital Management, L.P. v. James D. Dondero*, Adv. Pro. No. 21-03003;
- *Highland Capital Management, L.P. v. Highland Capital Management Fund Advisors, L.P.*, Adv. Pro. No. 21-03004;
- *Highland Capital Management, L.P. v. NexPoint Advisors, L.P.*, Adv. Pro. No. 21-03005; and
- *Highland Capital Management, L.P. v. HCRE Partners, LLC (n/k/a NexPoint Real Estate Partners, LLC)*, Adv. Pro. No. 21-03007.

IT IS SO STIPULATED.

Dated: August 17, 2021

CONSENTED AND AGREED TO BY:

/s/ Michael P. Aigen

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**ATTORNEYS FOR THE DUGABOY
INVESTMENT TRUST**

CERTIFICATE OF SERVICE

I certify that on August 17, 2021, a true and correct copy of the foregoing document was served via the Court's Electronic Case Filing system to the parties that are registered or otherwise entitled to receive electronic notices in this case.

/s/ Michael P. Aigen

Michael P. Aigen